



COUNTY OF LOS ANGELES  
OFFICE OF THE COUNTY COUNSEL

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October 30, 2008

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors:

**AUTHORIZE AMENDMENT OF AGREEMENT NO. 74496 WITH IRON MOUNTAIN  
RECORDS MANAGEMENT FOR OFF-SITE STORAGE, RETRIEVAL AND RELATED  
SERVICES  
ALL SUPERVISORIAL DISTRICTS  
(3 VOTES)**

**SUBJECT**

Authorize the County Counsel or his designee to execute an amendment to Services Agreement No. 74496 for off-site storage, retrieval and related services, among other things, to extend the term for one (1) year.

**IT IS RECOMMENDED THAT YOUR BOARD:**

1. Authorize the County Counsel or his designee to execute an amendment to Services Agreement No. 74496 (Services Agreement) with Iron Mountain Records Management (Iron Mountain), for off-site storage, retrieval and related services, substantially in the attached form, effective the later of December 1, 2008 or approval by your Board, among other things, to extend the term of the Services Agreement for one (1) year.

2. Delegate authority to the County Counsel or his designee to execute future amendments which do not materially affect the scope of work, period of performance, payments or any other term or condition included under the Services Agreement.

### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The Office of the County Counsel presently obtains off-site storage, retrieval and related services from Iron Mountain under the Services Agreement, which is scheduled to expire on November 30, 2008. The proposed amendment will (i) extend the Services Agreement to allow for the continued provision of these services, (ii) revise the statement of work under the Services Agreement to address the increased needs of the Office of the County Counsel with respect to these services, (iii) increase the monthly retainer rates payable under the Services Agreement and (iv) update certain County-required provisions which have been added or revised since the Services Agreement was originally executed.

### **Implementations of Strategic Plan Goals**

The recommended actions are consistent with the principles of the Countywide Strategic Plan Goal #3 (Organizational Effectiveness) to ensure that service delivery systems are efficient, effective and goal-oriented.

### **Fiscal Impact/Financing**

Under the proposed amendment, the current monthly retainer rate of \$3,822.90 will be increased and tiered as follows, based upon the number of existing and new cartons stored in a given month:

Number of Existing Cartons	Applicable Monthly Retainer Rate
32,231	\$5,923
30,000	\$5,700
25,000	\$5,200
20,000	\$4,700
15,000	\$4,200

Number of New Cartons	Applicable Monthly Retainer Rate
350	\$325
250	\$230
200	\$184
150	\$138
50	\$46

amendment. First, the statement of work (see Exhibit A to the proposed amendment) is being amended and restated to reflect the statement of work attached to the RFP. In summary, the revised statement of work nearly doubles the Office of the County Counsel's off-site storage requirements and increases the permitted rush and regular retrieval monthly requests from eight and seventy, respectively, to unlimited. Second, the monthly retainer rates payable under the Services Agreement are being increased and tiered as set forth in the Fiscal Impact/Financing Section of this letter. In its response to the RFP, Iron Mountain proposed higher rate increases than are reflected in the proposed amendment, but the Office of the County Counsel was able to negotiate more favorable rates during contract negotiations. Finally, several County-required provisions, such as debarment, assignment and delegation, and budget reductions, are being updated to reflect revisions since execution of the Services Agreement.

The proposed amendment reflects one notable difference from the requirements of the RFP, namely that the RFP identified a term of any resultant contract of three (3) years and two (2) one-year renewal periods, whereas the proposed amendment extends the term of the Services Agreement for one (1) year. When the Office of the County Counsel determined to amend the Services Agreement, rather than negotiate a new contract, it was on the condition that the Services Agreement would be amended as necessary to address the requirements of the RFP and to update County-required provisions. We believed, based upon correspondence with Iron Mountain, both written and oral, that Iron Mountain was in agreement with this approach, and approved a version of the proposed amendment that incorporated this approach. Two days prior to the date by which we had to file the proposed amendment with your Board, Iron Mountain informed us that the proposed amendment had to incorporate an exception Iron Mountain included in its proposal, specifically, a limitation of liability, in order to execute the proposed amendment extending the term of the Services Agreement for three (3) years and two (2) one-year renewal periods, as specified in the RFP. The Office of the County Counsel does not feel the proposed amendment includes sufficient consideration to support including this exception. The compromise reached was to extend the term of the Services Agreement for one (1) year, without the limitation of liability provision, which will provide the Office of the County Counsel time to consider its options for replacing, and secure replacement of, the Services Agreement.

Iron Mountain took exception to the County-required assignment and delegation provision. Under the negotiated provision, Iron Mountain is not required to obtain County's written consent in the event Iron Mountain assigns its rights or delegates its duties to an affiliate or in the event of a change of majority control. However, in the case of a change of majority control, Iron Mountain must notify County within ten (10) business days after a public announcement of such change of control or, if there is no public announcement of such change of control, Iron Mountain must notify County of the change within ten (10) business days following the effective date of the change of control. If County determines that the change of control would prevent Iron Mountain from being qualified and eligible to receive a contract award under

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October 30, 2008  
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applicable federal, State and/or County laws, regulations and/or policies (e.g., the majority control of Iron Mountain is held by a debarred entity), then County may terminate the Services Agreement.

The proposed amendment continues an annual cost of living adjustment permitted under the Services Agreement with respect to the monthly retainer rates and destruction fees, but updates the provision to reflect current Board policy. As is the case in the Services Agreement, the proposed amendment caps any annual cost of living adjustments at five percent (5%) of the monthly retainer rates and destruction fees, as the case may be. Because the proposed amendment will only extend the term of the Services Agreement one (1) year, unless extended further, the cost of living adjustment will not apply.

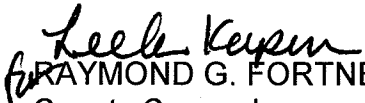
### **IMPACT ON CURRENT SERVICES**

The proposed amendment will not result in the displacement of any County employees, as the Office of the County Counsel is presently contracting with the private sector for off-site storage, retrieval and related services.

### **CONCLUSION**

Upon Board approval, the Executive Office of the Board is requested to return one (1) copy of the adopted Board letter to the Office of the County Counsel's Administrative Services Bureau.

Respectfully submitted,

  
RAYMOND G. FORTNER, JR.  
County Counsel

RGF:vs

Attachments (1)

c: William T Fujioka  
Chief Executive Officer

Sachi A. Hamai, Executive Officer  
Board of Supervisors

## AMENDMENT NO. 8

This Amendment No. 8 ("Amendment No. 8"), dated as of December 1, 2008, is by and between County of Los Angeles ("County"), on behalf of its Office of the County Counsel ("County Counsel"), and Iron Mountain Records Management ("Contractor"), successor to Guardian Records Management, LLC, and amends that certain Agreement No. 74496 for Off-Site Storage, Retrieval and Related Services, dated as of June 3, 2003 (as amended, including, without limitation, by this Amendment No. 8, "Agreement"). Capitalized terms used herein without definition have the meanings given to such terms in the Agreement.

WHEREAS, County and Contractor have entered into the Agreement for Contractor's provision of off-site storage, records retrieval and related services, subject to the terms and conditions of the Agreement; and

WHEREAS, the Agreement has been previously amended by Amendment No. 1, dated May 16, 2006, Amendment No. 2, dated June 30, 2007, and Amendment No. 3, dated June 4, 2008, Amendment No. 4, dated July 25, 2008, Amendment No. 5, dated September 1, 2008, Amendment No. 6, dated September 24, 2008, and Amendment No. 7, dated October 9, 2008; and

WHEREAS, the parties desire to amend the Agreement, among other things, (a) to extend the term of the Agreement, (b) to modify the statement of work attached as Exhibit A to the Agreement, (c) to modify the monthly retainer rate payable under the Agreement and (d) to add or modify certain Board of Supervisors and/or legally required provisions to the Agreement, in each case, subject to the terms and conditions of the Agreement and this Amendment No. 8.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Amendment No. 8 Effective Date: This Amendment No. 8 shall become effective as of the date first set forth above ("Amendment No. 8 Effective Date"), which is the date as of which County's Board of Supervisors has approved this Amendment No. 8 and County Counsel has received executed counterparts to this Amendment No. 8 by authorized representatives of County and Contractor.
2. Amendments to Body of Agreement: As of the date of the Amendment No. 8 Effective Date, the body of the Agreement shall be amended as follows:

2.1 Paragraph 1.0 (Applicable Documents) of the Agreement shall be restated in its entirety as follows:

1.0 Applicable Documents

Exhibits A, B, C, D, and E are attached to and incorporated herein as part of this AGREEMENT. In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any task, deliverable, good, service, or other work, or otherwise between the body of this AGREEMENT and the Exhibits, or between Exhibits, such conflict or inconsistency shall be resolved by giving precedents first to the AGREEMENT and then to the Exhibits according to the following priority:

Exhibit A – Statement of Work

Exhibit B – Standard Terms and Conditions

Exhibit C – Required Forms From Contractor

Exhibit D – Fee Schedule

Exhibit E – Contractor's Obligations as a "Business Associate" Under Health Insurance Portability & Accountability Act of 1996 (HIPAA)

2.2 Paragraph 3.0 (Period of Performance) of the Agreement shall be restated in its entirety as follows:

3.0 Period of Performance

The period of performance under the AGREEMENT shall commence on July 1, 2003, after execution by the Los Angeles County Board of Supervisors, and shall continue for one (1) year following the effective date of Amendment No. 8 to this AGREEMENT, unless it is earlier terminated by COUNTY, pursuant to the provisions set forth in the AGREEMENT.

2.3 Paragraph 5.0 (Contract Costs) of the Agreement shall be restated in its entirety as follows:

5.0 Contract Costs

- 5.1 CONTRACTOR shall invoice the COUNTY monthly in arrears for services rendered at the applicable monthly retainer rate set forth on Exhibit D – Fee Schedule. The monthly retainer rate for each month will be determined based upon the number of (a) cartons stored for such month and (b) new cartons indexed and stored for such month. With respect to any month, in the event that COUNTY requests in writing destruction of more than fifty cartons in such month, then provided CONTRACTOR actually destroys such cartons in accordance with this Agreement, CONTRACTOR may additionally include in the invoice for such month the applicable fees set forth on Exhibit D – Fee Schedule for the number of cartons in excess of fifty cartons for which the COUNTY requested destruction.
- 5.2 The monthly retainer rate and the fees payable for destruction of cartons in excess of fifty cartons per month may be adjusted annually based on the increase or decrease in the U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index (CPI) for the Los Angeles-Riverside-Orange County Area for the most recently published percentage change for the 12-month period preceding the contract anniversary date, which shall be the effective date for any cost of living adjustment. However, any increase shall not exceed (a) five percent (5%) annually and (b) the general salary movement granted to COUNTY employees as determined by the Chief Executive Office as of each July 1 for the prior 12-month period. Furthermore, should fiscal circumstances ultimately prevent COUNTY's Board of Supervisors from approving any increase in COUNTY employee salaries, no cost of living adjustments will be granted. Where the COUNTY decides to grant a Cost of Living Adjustment (COLA) pursuant to this paragraph for living wage contracts, it may, in its sole discretion exclude the cost of labor (including the cost of wages and benefits paid to employees providing services under this contract) from the base upon which a COLA is calculated, unless the CONTRACTOR can show that his/her labor cost will actually increase.

2.4 Paragraph 7.1 of the Agreement shall be amended to add the following sentence after the final punctuation of such paragraph:

The invoices shall additionally include supporting documentation showing the number of cartons stored, the number of new cartons, and the number of destroyed cartons.

2.5 Paragraph 7.2 of the Agreement is amended to delete the reference in such paragraph to "Diane Butler-Faulkner" and to replace such reference with "Veritta Smith".

2.6 Paragraph 8.0 (Summary Reports) of the Agreement shall be amended to add the following sentence after the final punctuation of such paragraph:

CONTRACTOR shall additionally prepare a report each month in a form approved by the COUNTY Contract Administrator or designee which shall clearly identify Preparer, Destruction Date, Division, and Box Number provided on the County Counsel Storage Deposit Receipt submitted with each request for off-site storage.

3. Amendments to Exhibits: As of the date of the Amendment No. 8 Effective Date, the Exhibits to the Agreement shall be amended as follows:

3.1 Exhibit A – Statement of Work to the Agreement shall be restated in its entirety with Exhibit A –Statement of Work attached to this Amendment No. 8 and incorporated herein by this reference.

3.2 Exhibit B – Standard Terms and Conditions to the Agreement is amended:

a. To amend Paragraph 6.2 of Exhibit B to delete the reference in such paragraph to "Diane Butler-Faulkner" and to replace such reference with "Veritta Smith".

b. To add Paragraph 7.3 to Exhibit B in the proper numerical order as follows:

7.3 Crime Coverage Insurance with limits in amounts not less than indicated below covering against loss of money, securities, or other property referred to in this AGREEMENT:

Employee Dishonesty:	\$500,000
Theft, Disappearance and Destruction:	\$500,000
Computer Fraud:	\$500,000



c. To restate Paragraph 12.2 of Exhibit B in its entirety as follows:

12.2 For any change which does not materially affect the scope of work, period of performance, payments, or any other term or condition included under this AGREEMENT, a negotiated modification to this AGREEMENT shall be executed by the COUNTY Counsel or designee and by an authorized official of CONTRACTOR.

d. To restate Paragraph 13.0 (Delegation and Assignment) of Exhibit B in its entirety as follows:

13.0 DELEGATION AND ASSIGNMENT

13.1 Unless it is to an affiliate, CONTRACTOR shall not assign its rights or delegate its duties under this AGREEMENT, or both, whether in whole or in part, without the prior written consent of COUNTY, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this sub-paragraph, COUNTY consent shall require a written amendment to the AGREEMENT, which is formally approved and executed by the parties. Any such assignment or delegation without COUNTY's express prior approval shall be a material breach of the AGREEMENT which may result in the termination of this AGREEMENT. In the event of such termination, COUNTY shall be entitled to pursue the same remedies against CONTRACTOR as it could pursue in the event of default by CONTRACTOR. Any payments by COUNTY to any approved delegate or assignee on any claim under this AGREEMENT shall be deductible, at COUNTY's sole discretion, against the claims, which CONTRACTOR may have against COUNTY.

13.2 Shareholders, partners, members, or other equity holders of CONTRACTOR may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein. However, within ten (10) business days after a public announcement of any change in control of CONTRACTOR that will or does give majority control of CONTRACTOR to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at that time of execution of the AGREEMENT, Contractor shall

give COUNTY notice thereof. If there is no public announcement of such change of control, CONTRACTOR shall notify COUNTY of the change within ten (10) business days following the effective date of the change of control. If COUNTY, in good faith, reasonably determines that the change of majority control of CONTRACTOR would prevent CONTRACTOR from being qualified and eligible to receive a contract award under applicable federal, state and/or COUNTY laws, regulations and/or policies (e.g., the majority control of CONTRACTOR is held by a debarred entity), then COUNTY may terminate this AGREEMENT and, while not a termination for default, County shall have the same rights and may pursue the same remedies against CONTRACTOR as it would have and could pursue in the event of default by CONTRACTOR.

- e. To restate Paragraph 25.0 (Renegotiation Because of Budget Reductions) of Exhibit B in its entirety as follows:

25.0      BUDGET REDUCTIONS

In the event that the COUNTY's Board of Supervisors adopts, in any fiscal year, a COUNTY Budget which provides for reductions in the salaries and benefits paid to the majority of COUNTY employees and imposes similar reductions with respect to COUNTY contracts, the COUNTY reserves the right to reduce its payment obligation under this AGREEMENT correspondingly for that fiscal year and any subsequent fiscal year during the term of this AGREEMENT (including any extensions), and the services to be provided by CONTRACTOR under this AGREEMENT shall also be reduced correspondingly. COUNTY's notice to CONTRACTOR regarding said reduction in payment obligation shall be provided within thirty (30) calendar days of the Board's approval of such actions. Except as set forth in the preceding sentence, CONTRACTOR shall continue to provide all of the services set forth in this AGREEMENT.

- f. To restate Paragraph 32.0 (Debarment) of Exhibit B in its entirety as follows:

32.0 DEBARMENT

- 32.1 A responsible contractor is a contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the contract. It is COUNTY's policy to conduct business only with responsible contractors.
- 32.2 CONTRACTOR is hereby notified that, in accordance with Chapter 2.202 of the COUNTY Code, if the COUNTY acquires information concerning the performance of CONTRACTOR on this or other contracts which indicates that CONTRACTOR is not responsible, the COUNTY may, in addition to other remedies provided in the AGREEMENT, debar CONTRACTOR from bidding or proposing on, or being awarded, and/or performing work on COUNTY contracts for a specified period of time, which generally will not exceed five years but may exceed five years or be permanent if warranted by the circumstances, and terminate any or all existing contracts CONTRACTOR may have with COUNTY.
- 32.3 COUNTY may debar a contractor if the Board of Supervisors finds, in its discretion, that a contractor has done any of the following: (1) violated a term of a contract with the COUNTY or a nonprofit corporation created by the COUNTY, (2) committed an act or omission which negatively reflects on the contractor's quality, fitness or capacity to perform a contract with the COUNTY, any other public entity, or a nonprofit corporation created by the COUNTY, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the COUNTY or any other public entity.
- 32.4 If there is evidence that CONTRACTOR may be subject to debarment, the County Counsel will notify CONTRACTOR in writing of the evidence which is the basis for the proposed debarment and will advise CONTRACTOR of the scheduled date for a

debarment hearing before the Contractor Hearing Board.

- 32.5 The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. CONTRACTOR and/or CONTRACTOR's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether CONTRACTOR should be debarred, and, if so, the appropriate length of time of the debarment. CONTRACTOR and the County Counsel shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Supervisors.
- 32.6 After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.
- 32.7 If a contractor has been debarred for a period longer than five (5) years, that contractor may after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The COUNTY may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the contractor has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the COUNTY.
- 32.8 The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) the contractor has been debarred for a period longer than five (5) years; (2) the debarment has been

in effect for at least five (5) years; and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.

32.9 The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

32.10 These terms shall also apply to subcontractors of COUNTY contractors.

- g. To add Paragraph 43.0 (Contractor's Obligations as a "Business Associate" Under Health Insurance Portability & Accountability Act (HIPAA)) to Exhibit B in the proper numerical order as follows:

43.0 CONTRACTOR'S OBLIGATIONS AS A "BUSINESS ASSOCIATE" UNDER HEALTH INSURANCE PORTABILITY & ACCOUNTABILITY ACT (HIPAA)

COUNTY is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Under this AGREEMENT, CONTRACTOR provides services to COUNTY and CONTRACTOR may receive, have access to, and/or create Protected Health Information as defined in Exhibit E to the AGREEMENT in order to provide those services. The COUNTY and CONTRACTOR therefore agree to the terms of Exhibit E – Contractor's Obligations as a

“Business Associate” Under Health Insurance  
Portability & Accountability Act of 1996 (HIPAA) to the  
AGREEMENT.

3.3 Exhibit D – Fee Schedule attached to this Amendment No. 8 and incorporated herein by this reference is added to the Agreement as Exhibit D – Fee Schedule.

3.4 Exhibit E - Contractor’s Obligations as a “Business Associate” Under Health Insurance Portability & Accountability Act of 1996 (HIPAA) attached to this Amendment No. 8 and incorporated herein by this reference is added to the Agreement as Exhibit E - Contractor’s Obligations as a “Business Associate” Under Health Insurance Portability & Accountability Act of 1996 (HIPAA).

4. Authorization Warranty: The person executing this Amendment No. 8 on behalf of Contractor is an authorized agent who has actual authority to bind Contractor to each and every term, condition, and obligation of this Amendment No. 8 and that all requirements of Contractor have been fulfilled to provide such actual authority.

5. Counterparts: This Amendment No. 8 may be executed in one or more counterparts, each of which shall be an original, but all of which shall constitute one in the same document.

6. Governing Law: This Amendment No. 8 shall be governed by, and construed in accordance with, the laws of the State of California.

7. Effect on Agreement: This Amendment No. 8 only modifies the Agreement to the extent expressly set forth herein. All terms and conditions of the Agreement, as amended this Amendment No. 8, shall remain in full force and effect and are hereby reaffirmed. This Amendment No. 8 supersedes any and all previous amendments to the Agreement.

\* \* \*

IN WITNESS WHEREOF, Contractor has executed this Amendment No. 8, or caused it to be executed by its authorized representative, and County has caused this Amendment No. 8 to be executed on its behalf by the its County Counsel or such person's designee, as of the day and year first above written.

CONTRACTOR:  
IRON MOUNTAIN RECORDS MANAGEMENT

By \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

COUNTY:  
COUNTY OF LOS ANGELES

By \_\_\_\_\_  
Raymond G. Fortner, Jr.  
County Counsel

## EXHIBIT A

### STATEMENT OF WORK

#### 1.0 CONTRACTOR'S SPECIFIC TASKS

- 1.1 CONTRACTOR shall provide staff and vehicles for the initial pick-up and transfer of approximately 32,231 cartons from the County Counsel's present contract storage vendor and the delivery of same to CONTRACTOR'S storage facility within the greater Los Angeles area for initial bar-coding, indexing and storage.
- 1.2 CONTRACTOR shall provide bar-coding and indexing of all contents of the approximately 32,231 cartons on a one-time basis. Completion of the transfer of County Counsel's approximately 32,231 cartons, initial bar-coding, indexing and storage of same shall not exceed five months from the effective contract date. CONTRACTOR shall index up to 350 cartons per month on an as-needed basis.
- 1.3 Indexing shall be completed by using up to four fields to complete the following information for each carton:
  - 1.3.1 If a case-file-
    - Carton number
    - Case name
    - Case number
    - Docket number
  - 1.3.2 If a non-case file -
    - Carton number
    - Attorney name or Division
    - Brief description of contents of box, (i.e. Accounting information, covering 6/99 through 12/99) Any other pertinent descriptive identifying information, if needed.
- 1.4 CONTRACTOR shall bar-code index and store on an as-needed basis a maximum of 350 new cartons per month, providing COUNTY with, at a minimum, a detailed list of the contents of all cartons stored and their local number.



- 1.5 CONTRACTOR shall store all bar-coded and indexed cartons in appropriate temperature controlled storage facility shelves at CONTRACTOR'S storage facility in the greater Los Angeles area.
- 1.6 CONTRACTOR shall provide retrieval, pick-up and return services Monday through Friday as needed by the COUNTY. If requested to do so by COUNTY, CONTRACTOR shall: (a) retrieve a file or carton from CONTRACTOR's facility and deliver the file or carton to a COUNTY facility, and/or (b) pick-up/return a file or carton from a COUNTY facility, transport the file or carton to CONTRACTOR's facility, and perform bar-coding or indexing, as necessary. Unless otherwise specified as a "Rush" service, CONTRACTOR is to provide these retrieval, pick-up and return services the next business day following a COUNTY request for such services. If the COUNTY requests that these services be provided on a Rush basis, CONTRACTOR is to perform the service within a two hour period.
- 1.7 CONTRACTOR shall destroy upon written confirmation from COUNTY, a maximum of fifty cartons per month. CONTRACTOR shall follow established guidelines with respect to confidentiality at all times, including the handling during destruction of COUNTY documents.
- 1.8 CONTRACTOR shall provide COUNTY with transmittal slip detailing all requests delivered and returns taken at the regular delivery days of Monday through Friday.
- 1.9 CONTRACTOR shall provide COUNTY with access to CONTRACTOR's records database system.
- 1.10 CONTRACTOR shall train COUNTY staff at no additional cost to COUNTY with respect to CONTRACTOR's database. Training shall consist of, at a minimum, on-line accessing and updating of CONTRACTOR's records storage and retrieval database.
- 1.11 Except as otherwise provided, upon the expiration or termination of the proposed AGREEMENT, CONTRACTOR shall, at no cost to the COUNTY, provide COUNTY with a complete electronic database of COUNTY's files stored with CONTRACTOR. The database shall contain the indexing information required in this Part A and shall be on a media and in a form specified by COUNTY.

2.0 **CONTRACTOR'S RESPONSIBILITIES**

- 2.1 CONTRACTOR shall be responsible for providing competent support personnel. The personnel must have a neat appearance and professional demeanor. CONTRACTOR shall be responsible to fulfill the requirements of the AGREEMENT, and shall establish an effective management and organization structure.
- 2.2 CONTRACTOR shall have a minimum of three years experience in providing storage, retrieval and destruction services, including an Operations Manager with a minimum of three years paid experience providing management support in the area of storage and retrieval services.
- 2.3 CONTRACTOR's couriers must be fully licensed and insured.
- 2.4 CONTRACTOR must have established document and data security, and control procedures to ensure compliance with COUNTY requirements.
- 2.5 CONTRACTOR shall provide labor, facility, telephone services, utilities, equipment, vehicles, supplies and forms necessary to maintain control, confidentiality, and accountability of County Counsel records.
- 2.6 CONTRACTOR shall provide a proper environment for storing County Counsel records.
  - A. Temperature and Humidity

Office records stored at the CONTRACTOR's facility must be maintained in an environment which is temperature and humidity controlled. Temperature and humidity must be monitored and controlled by an automatic system at all times including weekends and holidays.
  - B. Environmental Contaminates

Air circulated into the CONTRACTOR's storage facility must be filtered to eliminate airborne contaminants such as dust, smoke, ash, and all caustic agents harmful to paper records.
  - C. Storage Cartons

CONTRACTOR shall provide sufficient storage cartons as requested, to protect and store County Counsel's records. Cartons provided by CONTRACTOR must be specifically designed for storage and protection of County Counsel records. Cartons shall be provided in unlimited quantities and on an as-needed basis upon request by COUNTY.

D Fire Detection System

CONTRACTOR must provide smoke and heat detection systems at the CONTRACTOR'S storage facility, to alert staff to the presence of smoke, excessive heat, or combustible gasses. These systems must be monitored by CONTRACTOR'S staff 24 hours a day, 7 days per week, including holidays. Also, these systems must automatically trigger fire suppression systems within the CONTRACTOR'S storage facility, if necessary.

E Fire Suppression Systems

CONTRACTOR must provide a suitable fire suppression system consistent with the storage of office records.

F. Input/Output Controls

CONTRACTOR must provide a means of accurately logging and locating all office records stored at the CONTRACTOR'S storage facility or returned to COUNTY'S facility(s).

- 2.7 CONTRACTOR must provide COUNTY access to its records stored at the CONTRACTOR'S facility, during COUNTY'S normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday.
- 2.8 CONTRACTOR'S personnel shall be expected to observe all applicable Cal-OSHA and COUNTY safety requirements while at COUNTY'S facility(s).
- 2.9 CONTRACTOR shall be responsible for the safety of equipment, material, and personnel under the CONTRACTOR'S jurisdiction during work hours.
- 2.10 CONTRACTOR'S storage site(s) must be located within the boundaries of the greater Los Angeles area.
- 2.11 CONTRACTOR must own or lease serviceable vehicles capable of transporting loads of cartons, five days a week. The serviceable vehicles must be in good running condition.

- 2.12 CONTRACTOR'S courier shall count the number of cartons to be picked up at COUNTY'S location, ascertain that the transmittal form reflects the same number of cartons, and transport the cartons to the CONTRACTOR'S storage facility.
- 2.13 CONTRACTOR is solely responsible for the safe and confidential storage of these records from pick-up/retrieval to delivery/return.
- 2.14 CONTRACTOR will provide County Counsel with unlimited retrieval requests on a monthly basis. Special Rush requests shall only be made by the COUNTY's Daily Operations Supervisor. CONTRACTOR is responsible, in these instances, for delivery of the records within two hours to a COUNTY location as directed by the COUNTY'S Daily Operations Supervisor. CONTRACTOR shall receive a signed receipt at that time, which includes acknowledgment of the time of delivery and the requested record(s) delivered.

3.0 **COUNTY'S RESPONSIBILITIES**

COUNTY will provide dedicated lines and modems for on-line access of CONTRACTOR'S records database system.

4.0 **HOURS OF OPERATION**

CONTRACTOR shall report to COUNTY'S Contract Manager or Daily Operations Supervisor and perform services during COUNTY'S normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday.

5.0 **COUNTY COUNSEL LOCATIONS**

CONTRACTOR shall provide the required services for the following locations:

Office of the Los Angeles County Counsel  
Hahn Hall of Administration  
500 W. Temple, Room 652  
Los Angeles, CA 90012

Children's Services Division  
Edmund D. Edelman Children's Court  
201 Centre Plaza Drive, Suite 1  
Monterey Park, CA 91754

\*COUNTY reserves the right to add to or delete from the location information above.

6.0 **CONTRACTOR'S LOCATION**

- 6.1 CONTRACTOR shall store COUNTY'S cartons at its storage location(s) within the greater Los Angeles area.
- 6.2 In the event that CONTRACTOR must relocate COUNTY'S record cartons, CONTRACTOR must notify COUNTY in writing at least 60 days prior. CONTRACTOR'S new location shall be subject to COUNTY'S approval.

7.0 **COSTS**

- 7.1 CONTRACTOR shall waive all charges for the initial indexing of COUNTY'S approximately 32,231 cartons.
- 7.2 CONTRACTOR'S applicable monthly retainer fee identified on Exhibit D – Fee Schedule to the AGREEMENT shall include unlimited volume for the following services, as needed by the COUNTY:

- Storage of approximately 32,231 cartons

- Retrievals, return, and refiling services, Monday through Friday.
  - Unlimited "Rush" requests (service to be provided within a two hour period) per month
  - Unlimited regular requests for retrieval and delivery of files or cartons per month.
  - A maximum of 350 pick-ups/returns of files or cartons per month.
- Destruction, upon written request, of a maximum of fifty cartons per month. Destruction, upon written request, in excess of fifty cartons in any given month shall be at the applicable fees set forth on Exhibit D – Fee Schedule.

## EXHIBIT D FEE SCHEDULE

### Initial Pick-Up, Transfer, Barcoding, Indexing and Storage Services:

For the work described in Sections 8.1 and 8.2 of Exhibit A (Statement of Work) to the contract, which is a monthly fixed, flat rate fee for such work, based upon the following:

Number of Cartons	Pricing
32,231	\$5,923
30,000	\$5,700
25,000	\$5,200
20,000	\$4,700
15,000	\$4,200

### Ongoing Pick-Up, Barcoding, Indexing, Storage, Retrieval and Return:

For all other work described in Exhibit A (Statement of Work) to the contract, which is a monthly fixed, flat rate fee for such work, based upon the following:

Number of New Cartons per Month	Pricing
350	\$325
250	\$230
200	\$184
150	\$138
50	\$46

### Pricing for the destruction of boxes:

Destruction, upon written request, shall be at the applicable fees set forth on Exhibit D-Fee Schedule.

Number of Cartons	Pricing
51-250	\$6.47 per box
250-500	\$6.21 per box
500-1000	\$5.96 per box
1000-above	\$5.72 per box

## EXHIBIT E

### CONTRACTOR'S OBLIGATIONS AS A "BUSINESS ASSOCIATE" UNDER HEALTH INSURANCE PORTABILITY & ACCOUNTABILITY ACT OF 1996 (HIPAA)

This Business Associate Protected Health Information Disclosure Agreement ("Agreement") is entered into effective this 1st day of December, 2008 ("Effective Date") by and between the County of Los Angeles ("Covered Entity" or "County") and Iron Mountain Records Management ("Business Associate" or "Contractor").

### RECITALS

WHEREAS, the parties have executed an Agreement for Off-site Storage, Retrieval and Related Services ("Services Agreement"), whereby Business Associate provides Services to Covered Entity, and Business Associate may receive, have access to or create Protected Health Information in order to provide those Services;

WHEREAS, Covered Entity is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and the rules and regulations from time to time promulgated thereunder, including the Standards for Privacy of Individually Identifiable Health Information (the "Privacy Regulations") and the Health Insurance Reform: Security Standards (the "Security Regulations") at 45 Code of Federal Regulations Parts 160 and 164 (together, the "Privacy and Security Regulations");

WHEREAS, the Privacy and Security Regulations require Covered Entity to enter into a contract with Business Associate in order to mandate certain protections for the privacy and security of Protected Health Information, and those Regulations prohibit the disclosure to or use of Protected Health Information by Business Associate if such a contract is not in place;

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

### DEFINITIONS

1.1 "Disclose" and "Disclosure" mean, with respect to Protected Health Information, the release, transfer, provision of access to or divulging in any other manner of Protected Health Information outside Business Associate's internal operations or to other than its employees.

1.2 "Electronic Media" has the same meaning as the term "electronic media" in 45 C.F.R. § 160.103. Electronic Media means (1) electronic storage media including memory devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk or digital memory card; or (2) transmission media used to exchange



information already in electronic storage media. Transmission media include, for example, the internet (wide-open), extranet (using internet technology to link a business with information accessible only to collaborating parties), leased lines, dial-up lines, private networks and the physical movement of removable/transportable electronic storage media. Certain transmissions, including of paper, via facsimile and of voice, via telephone, are not considered to be transmissions via electronic media, because the information being exchanged did not exist in electronic form before the transmission. The term "Electronic Media" draws no distinction between internal and external data at rest (that is, in storage) as well as during transmission.

1.3 "Electronic Protected health Information" has the same meaning as the term "electronic protected health information" in 45 C.F.R. § 160.103. Electronic Protected Health Information means Protected Health Information that is (i) transmitted by electronic media; or (ii) maintained in Electronic Media.

1.4 "Individual" means the person who is the subject of Protected Health Information and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

1.5 "Protected Health Information" has the same meaning as the term "protected health information" in 45 C.F.R. § 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity. Protected Health Information includes information that (i) relates to the past, present or future physical or mental health or condition of an Individual; the provision of health care to an Individual, or the past, present or future payment for the provision of health care to an Individual; (ii) identifies the Individual (or for which there is a reasonable basis for believing that the information can be used to identify the Individual); and (iii) is received by Business Associate from or on behalf of Covered Entity, or is created by Business Associate, or is made accessible to Business Associate by Covered Entity. Protected Health Information includes Electronic Health Information.

1.6 "Required By Law" means a mandate contained in law that compels an entity to make a Use or Disclosure of Protected Health Information and that is enforceable in a court of law. Required by law includes, but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or any administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to health care providers participating in the program; and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing benefits.

1.7 "Security Incident" means the attempted or successful unauthorized access, Use, Disclosure, modification or destruction of information in, or interference with system operations of, an information system which contains Electronic Protected Health Information. However, Security Incident does not include attempts to access an information system when those attempts are not reasonably considered by Business Associate to constitute an actual threat to the information system.

1.8 "Services" has the same meaning as in the Services Agreement.

1.9 “Use” or “Uses” mean, with respect to Protected Health Information, the sharing, employment, application, utilization, examination or analysis of such Information within Business Associate’s internal operations.

1.10 Terms used, but not otherwise defined, in this Agreement and the Services Agreement shall have the same meaning as those terms in the Privacy and Security Regulations.

### **OBLIGATIONS OF BUSINESS ASSOCIATE**

**2.1 Permitted Uses and Disclosures of Protected Health Information. Business Associate:**

- (a) shall Use and Disclose Protected Health Information as necessary to perform the Services, and as provided in Sections 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 4.3 and 5.2 of this Agreement;
- (b) shall Disclose Protected Health Information to Covered Entity upon request;
- (c) may, as necessary for the proper management and administration of its business or to carry out its legal responsibilities:
  - (i) Use Protected Health Information; and
  - (ii) Disclose Protected Health Information if the Disclosure is Required by Law.

Business Associate shall not Use or Disclose Protected Health Information for any other purpose.

**2.2 Adequate Safeguards for Protected Health Information. Business Associate:**

(a) shall implement and maintain appropriate safeguards to prevent the Use or Disclosure of Protected Health Information in any manner other than as permitted by this Agreement. Business Associate agrees to limit the Use and Disclosure of Protected Health Information to the minimum necessary in accordance with the Privacy and Security Regulation’s minimum necessary standard.

(b) effective as of April 20, 2005, specifically as to Electronic Health Information, shall implement and maintain administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of Electronic Protected Health Information.

**2.3 Reporting Non-Permitted Use or Disclosure.** Business Associate shall report to Covered Entity each Use or Disclosure that is made by Business Associate, its employees, representatives, agents or subcontractors but is not specifically permitted by this Agreement, and, effective as of April 20, 2005, each Security Incident of which Business Associate becomes aware. The initial report shall be made by telephone call to the applicable Department Privacy Officer within forty-eight (48) hours from the time the Business Associate becomes aware of the non-permitted Use or Disclosure or Security

Incident, followed by a full written report no later than ten (10) business days from the date the Business Associate becomes aware of the non-permitted Use or Disclosure or Security Incident to the Chief Information Privacy Officer at:

Chief Privacy Officer  
Kenneth Hahn Hall of Administration  
500 West Temple St.  
Suite 525  
Los Angeles, CA 90012

2.4 Mitigation of Harmful Effect. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.

2.5. Availability of Internal Practices, Books and Records to Government Agencies. Business Associate agrees to make its internal practices, books and records relating to the Use and Disclosure of Protected Health Information available to the Secretary of the federal Department of Health and Human Services for purposes of determining Covered Entity's compliance with the Privacy Regulations. Business Associate shall immediately notify Covered Entity of any requests made by the Secretary and provide Covered Entity with copies of any documents produced in response to such request.

2.6 Access to Protected Health Information. Business Associate shall, to the extent Covered Entity determines that any Protected Health Information constitutes a "designated record set" as defined by 45 C.F.R. § 164.501, make the Protected Health Information specified by Covered Entity available to the Individual(s) identified by Covered Entity as being entitled to access and copy that Protected Health Information. Business Associate shall provide such access for inspection of that Protected Health Information within two (2) business days after receipt of request from Covered Entity. Business Associate shall provide copies of that Protected Health Information within five (5) business days after receipt of request from Covered Entity.

2.7 Amendment of Protected Health Information. Business Associate shall, to the extent Covered Entity determines that any Protected Health Information constitutes a "designated record set" as defined by 45 C.F.R. § 164.501, make any amendments to Protected Health Information that are requested by Covered Entity. Business Associate shall make such amendment within ten (10) business days after receipt of request from Covered Entity in order for Covered Entity to meet the requirements under 45 C.F.R. § 164.526.

2.8 Accounting of Disclosures. Business Associate agrees to maintain documentation of the information required to provide an accounting of Disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528 and to make this information available to Covered Entity upon Covered Entity's request, in order to allow Covered Entity to respond to an Individual's request for accounting of Disclosures. However, Business Associate is not required to provide accounting of Disclosures that are necessary to perform its Services if such Disclosures are for either payment or health care operations purposes, or both. Additionally, such accounting is limited to Disclosures that were made in the six (6) years prior to the request (not including Disclosures that were made prior to

the compliance date of the Privacy Rule, April 14, 2003) and shall be provided for as long as Business Associate maintains the Protected Health Information.

Any accounting provided by Business Associate under this Section 2.8 shall include: (a) the date of the Disclosure; (b) the name, and address if known, of the entity or person who received the Protected Health Information; (c) a brief description of the Protected Health Information disclosed; and (d) a brief statement of the purpose of the Disclosure. For each Disclosure that could require an accounting under this Section 2.8, Business Associate shall document the information specified in (a) through (d) above and shall securely maintain the information for six (6) years from the date of the Disclosure. Business Associate shall provide to Covered Entity, within ten (10) business days after receipt of request from Covered Entity, information collected in accordance with this Section 2.8 to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.

### **OBLIGATION OF COVERED ENTITY**

3.1 Obligation of Covered Entity. Covered Entity shall notify Business Associate of any current or future restrictions or limitations on the use of Protected Health Information that would affect Business Associate's performance of the Services, and Business Associate shall thereafter restrict or limit its own uses and disclosures accordingly.

### **TERM AND TERMINATION**

4.1 Term. The term of this Agreement shall be the same as the term of the Services Agreement. Business Associate's obligations under Sections 2.1 (as modified by Section 4.2), 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 4.3 and 5.2 shall survive the termination or expiration of this Agreement.

4.2 Termination for Cause. In addition to, and notwithstanding, the termination provisions set forth in the Services Agreement, upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:

(a) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement and the Services Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;

(b) Immediately terminate this Agreement and the Services Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or

(c) If neither termination nor cure are feasible, Covered Entity shall report the violation to the Secretary of the federal Department of Health and Human Services.

4.3 Disposition of Protected Health Information Upon Termination or Expiration.

(a) Except as provided in paragraph (b) of this Section 4.3, upon termination for any reason

or expiration of this Agreement and the Services Agreement, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

(b) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make it infeasible. If return or destruction is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further Uses and Disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible for so long as Business Associate maintains such Protected Health Information.

## MISCELLANEOUS

5.1 No Third Party Beneficiaries. Nothing in this Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

5.2 Use of Subcontractors and Agents. Business Associate shall require each of its agents and subcontractors that receive Protected Health Information from Business Associate, or create Protected Health Information for Business Associate, on behalf of Covered Entity, to execute a written agreement obligating the agent or subcontractor to comply with all the terms of this Agreement.

5.3 Relationship to Services Agreement Provisions. In the event that a provision of this Agreement is contrary to a provision of the Services Agreement, the provision of this Agreement shall control. Otherwise, this Agreement shall be construed under, and in accordance with, the terms of the Services Agreement.

5.4 Regulatory References. A reference in this Agreement to a section in the Privacy and/or Security Regulations means the section as in effect or as amended.

5.5 Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy and Security Regulations.

5.6 Amendment. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy and Security Regulations.